

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 9/23/21
DATE FILED: 9/23/21

Lewis Family Group Fund LP, et al.,

Plaintiffs,

—v—

JS Barkats PLLC, et al.,

Defendants.

16-cv-5255 (AJN)

MEMORANDUM
OPINION & ORDER

ALISON J. NATHAN, District Judge:

The Court on July 11, 2019, found Defendants Sunny J. Barkats, JSBarkats PLLC, and Sunny Sky Realty, LLC, the only Defendants remaining in this case, to be in default. Dkt. No. 252 at 5–6. Plaintiffs filed a brief in support of default judgment on July 26, 2019. Dkt. No. 258. Because Plaintiffs’ briefing did not show that their pleadings were sufficient to establish liability nor provide adequate evidence of Plaintiffs’ requested damages, the Court referred Plaintiffs’ motion to the Honorable James L. Cott, U.S. Magistrate Judge, for an inquest and recommendation. Dkt. No. 267. Judge Cott issued a report on March 31, 2021, recommending that “defendants be held jointly and severally liable for \$405,000 in RICO treble damages, as well as for prejudgment interest on that award at a rate of 9% per annum, and for \$164,541.65 in compensatory damages on plaintiffs’ negligent infliction of emotional distress claim.” Report and Recommendation (R&R) at 1, Dkt. No. 285.

Defendants did not file any objections to the report and recommendation despite being provided notice and time to do so. *See* Fed. R. Civ. P. 72(b)(2) (“Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations.”). The Court therefore reviews the

report and recommendation for clear error. *Amadasu v. Ngai*, No. 05-CV-2585 (RRM), 2012 WL 3930386, at *3 (E.D.N.Y. Sept. 9, 2012) (collecting cases). Under this standard, the Court will adopt portions of the report to which no objections were made unless they are “facially erroneous.” *Bryant v. N.Y. State Dep’t of Corr. Servs.*, 146 F. Supp. 2d 422, 424–25 (S.D.N.Y. 2001); *see also DiPilato v. 7-Eleven, Inc.*, 662 F. Supp. 2d 333, 339–40 (S.D.N.Y. 2009) (“A decision is ‘clearly erroneous’ when the Court is, ‘upon review of the entire record, [] left with the definite and firm conviction that a mistake has been committed.’” (quoting *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006)).

This Court has fully considered the report and recommendation. Finding no error in Judge Cott’s thorough and well-reasoned report and recommendation, the Court adopts the report and recommendations in full as the opinion of the Court.

Accordingly, Plaintiffs’ motion for default judgment is GRANTED. The Court hereby awards Plaintiffs:

\$405,000 in RICO treble damages, as well as prejudgment interest on that award (as a result of the common law fraud claims) at a rate of 9% per annum as described above, and \$164,541.65 in compensatory damages on their negligent infliction of emotional distress claim against the Barkats Defendants jointly and severally.

R&R at 43.

Plaintiffs shall serve a copy of this Order on Defendant and file an affidavit of service on the public docket within seven days.

The Clerk of Court is respectfully directed to enter judgment and close the case.

SO ORDERED.

Dated: September 23, 2021

New York, New York



ALISON J. NATHAN

United States District Judge